IN RE: PETITION FOR ZONING VARIANCE * S/S HIGHLAND DRIVE, 345'NW * ZONING COMMISSIONER Stewart Glen Drive (Lot #36 Highland Ridge Dr. * OF BALTIMORE COUNTY 8th Election District 3rd Councilmanic District CASE # 89-83A CHARLES R. SERIO, JR., ET UX PETITIONERS

******** MEMORANDUM AND ORDER

The Petitioners herein request a zoning variance from Section 103.3, to permit a side yard setback of 30 feet in lieu of the required 50 feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared and testified. There was one Protestant, Mr. William R. MacIntosh, who lives at 2140 Highland Ridge Drive Court, Phoenix, Maryland 21131. Appearing on behalf of the Petitioner was Mr. Steve Self, of Gast Construction Company, 11100 Pulaski Highway, White Marsh Maryland 21162.

Testimony indicated that the subject property known as 2138 Highland Ridge Drive is zoned R.C. 4 and is located on Highland Ridge Drive Court and is approximately 1.7 acres and has most recently been improved with a two story brick and frame home with a two car garage.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, the subject structure was originally laid out and constructed by Gast Construction Company, Inc., and inadvertently was constructed approximately 20 feet closer to the north property line that is permitted by the Baltimore County Zoning Regulations. The property has been unoccupied since the completion of the home, as a result of the use and occupancy permit being withheld by Baltimore County because of the zoning irregularity.

The testimony and evidence tends to indicate that the subject variance is necessary in order to allow for the use and occupancy of the completed new dwelling unit without the demolition of the attached garage and the removal of that garage to a different location on the subject site.

The Protestant is not opposed to the granting of the variance and testified that he understands that the problem was inadvertently created and is not opposed to correcting this problem, however, he would like to protect his interests in maintaining the required open areas between all of the homes. He testified that he would like to have a vegetated buffer created along the property line to site screen his home from the garage doors and the closeness of the side of the subject property to his home.

It is the opinion of the Zoning Commissioner that the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, the variance should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

In reviewing the Petition, it must be kept in mind that "(t)he standard for granting a variance ... is ... whether strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship'; and that it should be granted only if in strict harmony with the spirit and intent of the Zoning regulations; and only

in such manner as to grant relief without substantial injury to the public health, safety and general welfare." McLean v. Soley.

The question, therefore, is whether it was fairly debatable that the evidence shows that strict compliance with the regulations would result in practical difficulty or unreasonable hardship.

After due consideration of the testimony and evidence presented, it is clear that strict compliance with the requirements would unreasonably prevent use of the property for a permitted purpose; that substantial injustice would be done to the owners and contract purchasers; and that the granting of a variance would be in the spirit of the law and would not create substantial detriment to the public

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, in the opinion of the Zoning Commissioner, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 26 day of AUGUST, 1988 that a zoning variance to permit aa side yard setback of 30 feet in lieu of the required 50 feet, as more particularly described on Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

> 1. The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original

2. The Petitioner shall provide landscaping and vegetated buffer along the north

"DUPLICATE"

THE JEFFERSONIAN,

property line as required and approved by the Baltimore County Landscape Planner in the Office of Current Planning and Development Division, Office of Planning and Zoning in order to adequately screen the subject property from the existing home located on Lot #37.

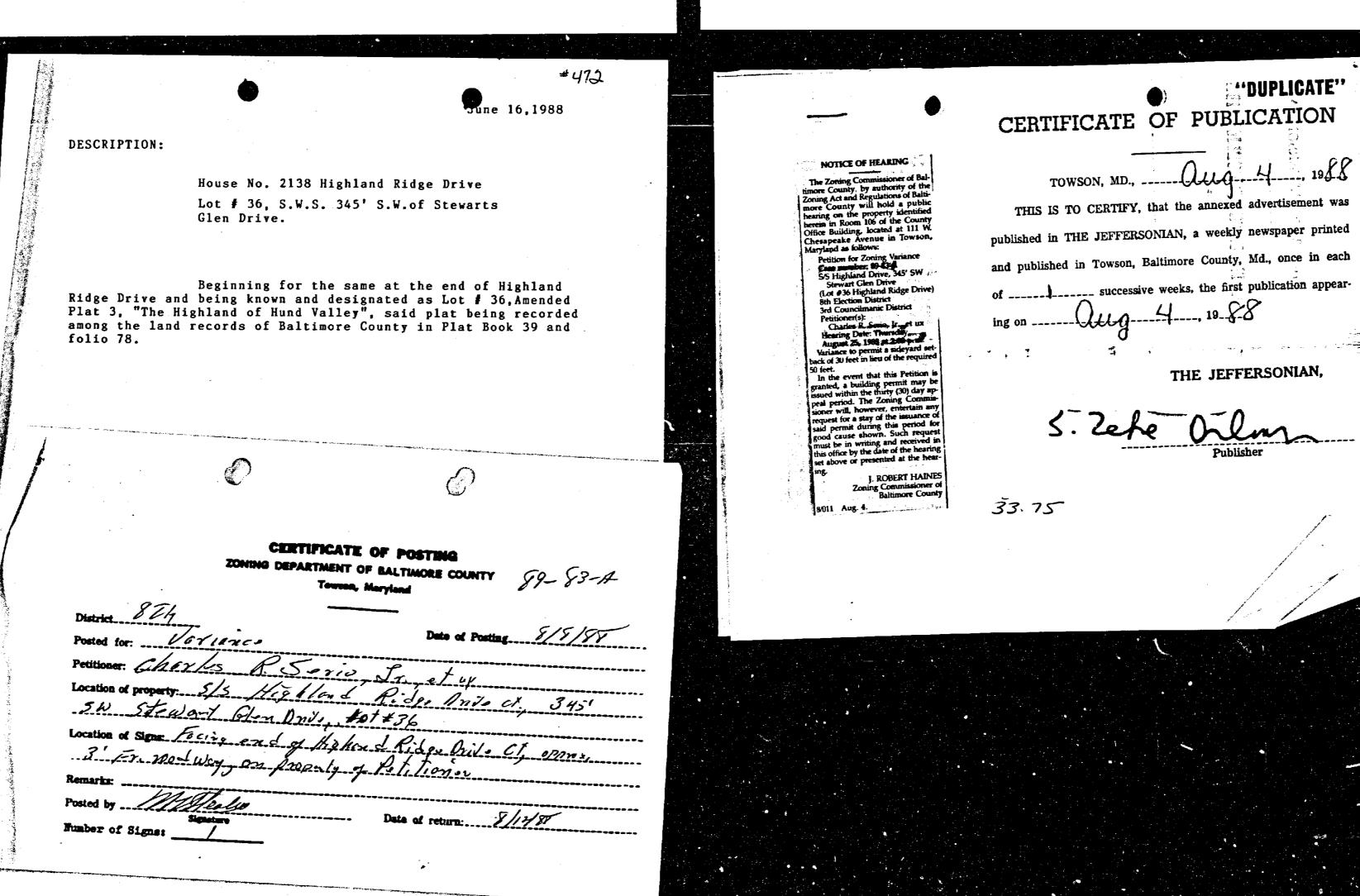
BALTIMORE COUNTY

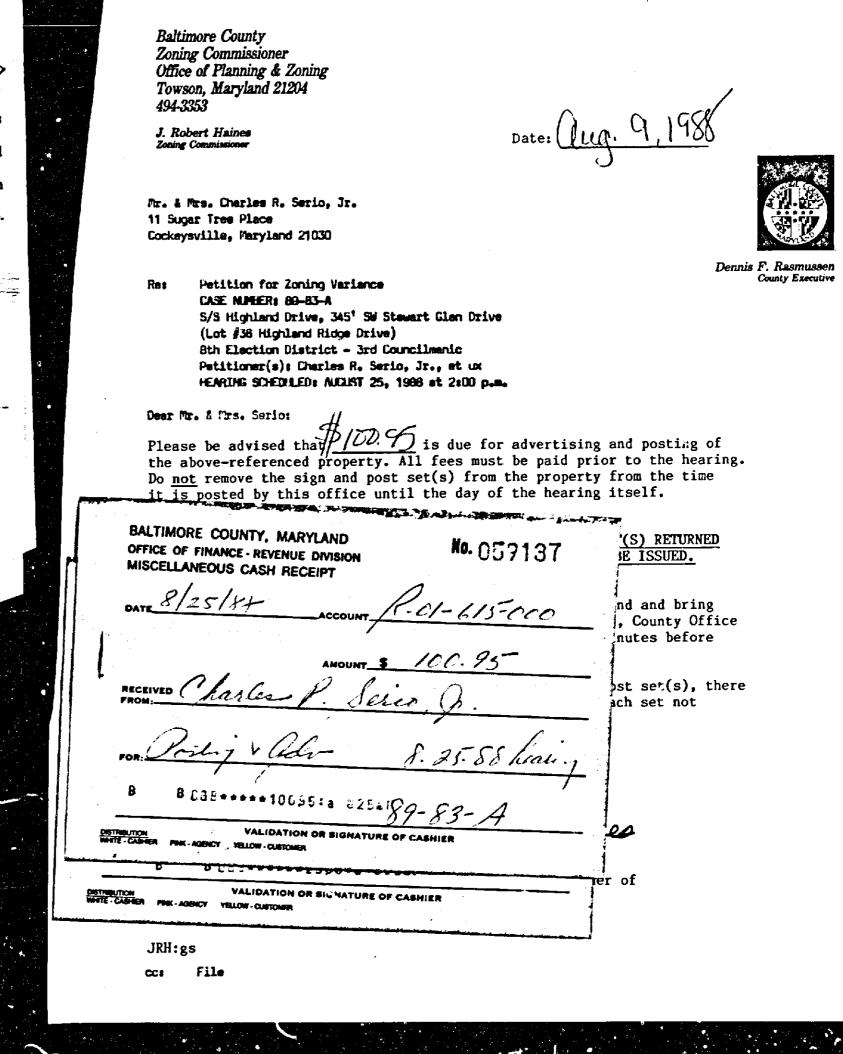
cc: Peoples Counsel Mr. William MacIntosh

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T	PETITION OR ZO THE ZONING COMMISSIONER OF BALTIMON	ore county: $89-83$	+472 3-A	
d	The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a			
V	Variance from Section 103.3 (1400.3.B.3) TO PERMIT A SIDE			
_	YARD SET BACK OF 30 FT IN LIEU OF THE REGUIRED			
-	50 FT.			
ç f	of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) Our house is			
situated with the N.W. portion of the garage encroaching approximately				
20 feet into the 50 ft. set-back restriction area. Without a variance				
the title companies and lending institutions will not allow the property				
to be sold or title transferred.				
Property is to be posted and advertised as prescribed by Zoning Regulations.				
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.				
		I/We do solemnly declare and af under the penalties of perjury, that are the legal owner(s) of the prop which is the subject of this Petition.	mrm, 21 A UE	
	Contract Purchaser:	Legal Owner(s):	200 DE	
	(Type or Print Name)	Charles R. Serio, Jr. (Type or Print Name)	1000	
(A)	Signature	Signature Virginia M. Sario	N 80,250	
1. 2.	Address	Virginia M. Serio (Type or Print Name)	E 2,350	
	City and State	Virginia M. Sext	u	
	Attorney for Petitioner:			
. •		11 SXGAR TREE PLACE-		
	(Type or Print Name)	Cocker's VILLE HD. 21030		
	Signature	City and State		
	Address	Name, address and phone number of legal owner tract purchaser or representative to be contact		
.1	City and State	STEVE SECE Name		
i	Attorney's Telephone No.:	CHEST CONSTRUCTION CO. INC	<u>د</u>	
1.		Address WHITE HARST Phone I	No. 335-428	
	ORDERED By The Zoning Commissioner of Baltimore County, this day			
	of			
County, on the day of				

AVAILABLE FOR EEARING

MON./TUES./WED. - NEXT TWO MONTES





Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Warienca CASE NATERIA 69-83-A 5/3 Highland Drive, 345° Si Stewart Clen Drive (Let \$56 Highland Richa Drive) With Election District - 3rd Councilmenic Petitioner(s): Charles R. Serie, Jr., of ux HEAMDHS SCHEDILED: MIGHST 25, 1955 et 2:00 p.m.

Verience to result a sind yard setteck of 30 feet in lieu of the required 50 feet.

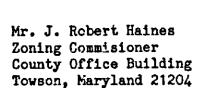
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County ers . Charles Se torio, Jr., et un

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204

Steve Scif/Cast Construction

August 3, 1988



Dear Mr. Haines:

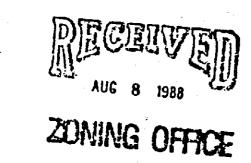
The Bureau of Traffic Engineering has no comments for items number 449, 472, 473, 477, 478, 479, 481, 483, 484, 485 and 486.

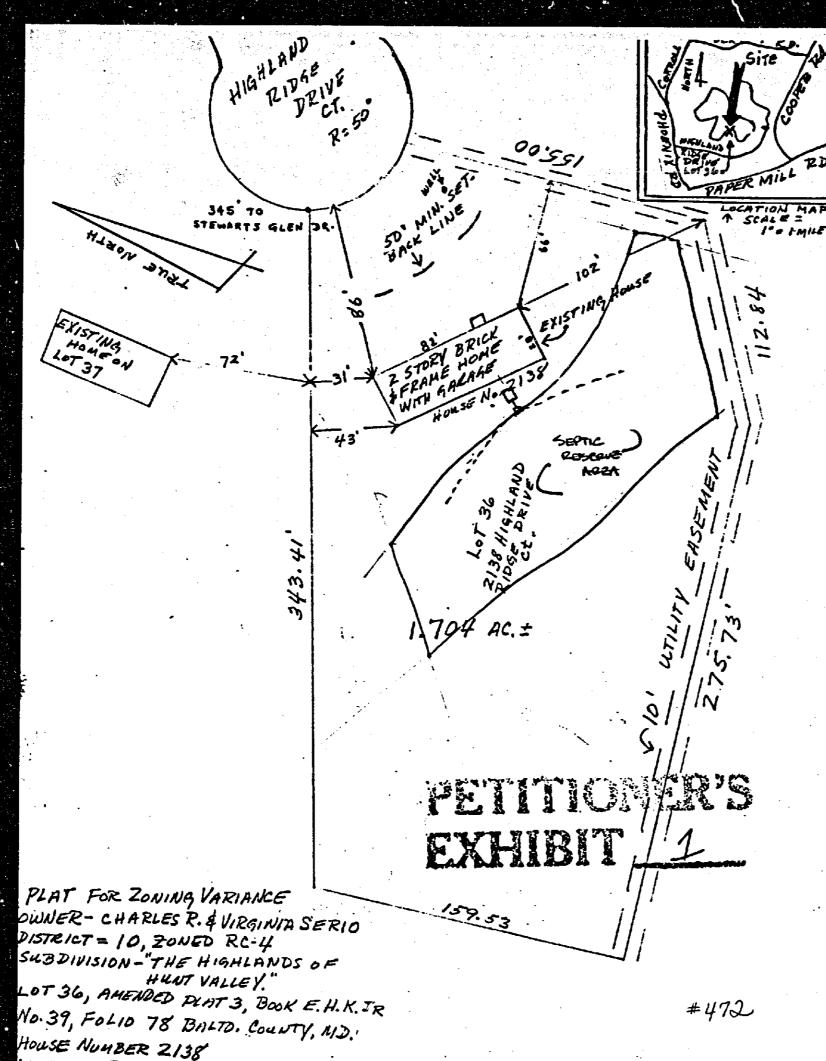
Very truly yours,

Stephen E. Weber, P.E. Assistant Traffic Engineer

Dennis F. Rasmussen County Executive

SEW/RF/lab





Balto.Co. Zoning Office

Re: Conditional Occupancy Permit. Lot #36 Highland Ridge Dr. Phoenix, Md. 21131

We have sold the house that we presently occupy (11 Sugar Tree Place) and must vacate by the end of August 1988. We are having a house built on Lot #36, Highland Ridge Dr.which is to completed for our occupancy by August 29,1988. However; we discovered that our builder has accidently built the house with the garage encroaching over the 50ft. side yard set back.line.He (Gast Construction Co.) has applied for a variance (application # 472 Serio), but the time frame precludes our

obtaining it in time. We have had several conversations with the buyer of our house but he completely refuses to let us stay on and rent back from him and has sent us a letter stating no other terms but to move out by the end of August 1988. Because of the short period of time, we are finding it very hard to find a place to rent and are facing double move with additional storage cost.

Our contract with the builder does not allow us to store anything prior to

occupancy and there can be no insurance coverage. For these reasons we respectfully request a Conditional Occupancy and greatly appreciate your consideration. Thank you.

> Sincerely; Charles R. Seriø, Jr.

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this

day of July , 1988.

Advisory Committee

July 13,1988

Mr. & Mrs. Charles R.Serio.Jr. 11 Sugar Tree Pl.Cockeysvile.Md. 21030

6-8-0666

Case #89-83-A

Towson, Maryland 21204 494-3353 J. Robert Haines

Baltimore County

Zoning Commissioner Office of Planning & Zoning

Fire Department

Paul H. Reincke Chief

J. Robert Haines

Towson, MD 21204

Zoning Commissioner

Office of Planning and Zoning Baltimore County Office Building

Item No.: 472

of Public Works.

prior to occupancy.

() 6. Site plans are approved, as drawn.

REVIEWER: Of Joseff Kelly 7-15 8 Approved:

Planning Group

F.

Special Inspection Division

Re: Property Owner: Charles R. Serio, Jr., et ux

2138 Highland Ridge Dr.

() 3. The vehicle dead end condition shown at

Location: S/S Highland Ridge Dr., 345' SW Stewarts Glen Dr.

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department

to be corrected or incorporated into the final plans for the property.

() 2. A second means of vehicle access is required for the site.

() 7. The Fire Prevention Bureau has no comments at this time.

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the

($_{\rm X}$) 5. The buildings and structures existing or proposed on the site shall

Fire Prevention Code prior to occupancy or beginning of operation.

comply with all applicable requirements of the National Fire Pro-

tection Association Standard No. 101 "Life Safety Code," 1976 edition

494-4500

Towson, Maryland 21204-2586

July 15, 1988

Zoning Agenda: Meeting of 7/12/88

July 29, 1988



Mr.and Mrs. Charles R. Serio, Jr. 11 Sugar Tree Place Cockeysville, Maryland 21030

> RE: Hearing, August 25, 1988 at 2:00 P.M. Case #89-83-A Petition for Zoning Variance

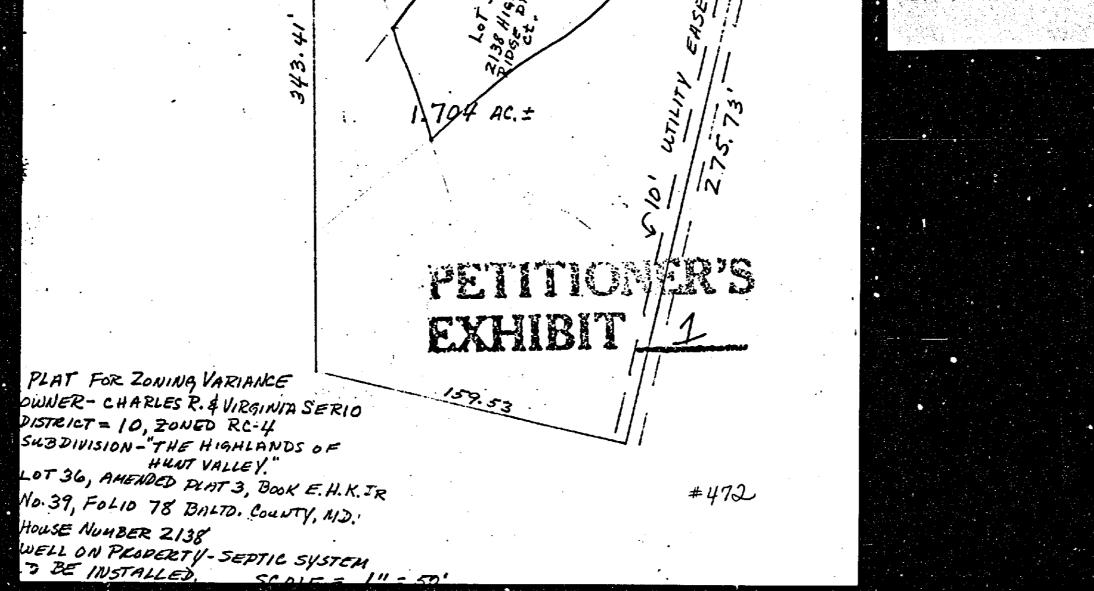
Dear Mr.and Mrs. Serio:

Thank you for your letter of July 13, 1988 regarding the above captioned case. I understand your problem and wish I could legally do more for you.

The new date of the public hearing is August 25, 1988 at 2:00 P.M. This date was moved back from the assigned date in September. The hearing will be held in Room 106 of the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204.

Please be advised that the statutory requirements that are placed upon me, in the hearing process, prevent me from hearing this matter any sooner than the August 25th date. I regret that I am unable to do any more for you in this regard.

Zoning Commissioner



COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21206

Mr. & Mrs. Charles R. Serio, Jr. ll Sugar Tree Place Cockeysville, Maryland 21030

RE: Item No. 472 - Case No. 89-83-A Petitioner: Charles R. Serio, Jr., et ux Petition for Zoning Variance

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

Bureau of Department of

State Roads Commissi Bureau of Health Department Project Planning **Building Department**

Fire Prevention Board of Education Zoning Administration Industrial Development

Dear Mr. & Mrs. Serio: The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the levelopment plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

August 17, 1988

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed

filing certificate and a hearing scheduled accordingly.

Very truly yours, James E. Dyer/dt

JAMES E. DYER Zoning Plans Advisory Committee

JED:dt